IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.

OCTOBER TERM, 1976

BRUCE E. BORRI,

Petitioner,

vs. NO. 76-753

ELAINE M. SIVERSON, previously known as ELAINE M. BORRI,

Respondent.

MOTION TO PROCEED IN FORMA PAUPERIS

The respondent, Elaine M. Siverson, previously known as Elaine M. Borri, respectfully moves this Court for permission to proceed before this Court in forma pauperis and in support thereof shows as follows:

1. As reflected in the attached affidavit, the respondent does not have the resources or funds to continue her legal defense before this Court.

2. The respondent has a meritorious defense and position to be presented before this Court involving the custody of her minor son.

3. The respondent has been involved in the litigation of the custody of her minor son for almost three and one-half years in both the courts of Florida and New Jersey, including the expense of transportation between the two states and no longer has resources or funds to pay the costs of the proceedings before this Court.

WHEREFORE, the respondent respectfully requests this Court to allow her to proceed in forma pauperis in response to the petitioner's petition for writ of certiorari.

Respectfully submitted,

SHEPPARD, FLETCHER, HAND & ADAMS

By _____
215 Washington Street
Jacksonville, Florida 32202
Attorneys for Respondent

I HEREBY CERTIFY that a copy hereof has been furnished to Bill McCabe, Esquire, Attorney for Petitioner, Suite 1460, CNA Tower, Orlando, Florida 32801, by mail, this 31st day of December, 1976.

_____
Attorney

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.

OCTOBER TERM, 1976

BRUCE E. BORRI,

Petitioner,

vs. NO. 76-753

ELAINE M. SIVERSON, previously known as ELAINE M. BORRI,

Respondent.

RECEIVED
JAN - 1977
OFFICE OF THE CLERK
SUPREME COURT, U.S.

REPLY TO PETITION FOR WRIT OF CERTIORARI

Respondent, Elaine M. Siverson, previously known as Elaine M. Borri, respectfully requests this Court to deny the petitioner's request for writ of certiorari on the grounds set forth herein.

Pursuant to Supreme Court Rule 40(3), the respondent accepts and adopts the petitioner's reference to the official and unofficial reports of the opinions delivered in the courts below; statement of the grounds on which jurisdiction of this Court is invoked; the constitutional provision and statute which the case involves; and the question presented for review.

The respondent accepts and adopts the petitioner's statement of the case with the exception that there was no hearing held before the New Jersey trial court on May 20, 1974, but that the trial court merely entered its order without the benefit of taking any further testimony.

ARGUMENT

Supreme Court Rule 19 requires "special and important reasons" for this Court to grant certiorari, and calls for this Court to exercise its "sound judicial discretion" in determining those reasons. It gives guidance though, by indicating the character of the reasons which the Court may follow. In the case of the state court decision, the state court must have decided the federal question of substance not theretofore determined by this Court.

This Court has already decided the question presented for review by petitioner of "must a custody decree in one state be accorded full faith and credit in a sister state". (Petitioner's Petition, page 3). In New York ex rel. Halvey v. Halvey, 330 U.S. 610 (1947) this Court held that:

> "The general rule is that this command [full faith and credit] requires the judgment of a sister state to be given full, not partial credit in the state of the forum. But a judgment has no constitutional claim to a more conclusive or final effect in the state of the forum than it has in the state where rendered." Id. at 614.

This decision was cited with approval by this Court in Kovacs v. Brewer, 356 U.S. 604 (1958).

Accordingly, Florida is not required to give the New Jersey order full faith and credit unless New Jersey requires the same of its sister states under its own law. The petitioner has readily conceded that New Jersey does not have such a requirement as it is not among the roll call of states cited by petitioner which do require full faith and credit in child custody cases. (Petitioner's Brief, page 24).

There are certainly refinements to this issue as pointed out in New York ex rel. Halvey v. Halvey, supra, however, they go far beyond the question presented before this Court by petitioner. None of those questions are applicable to this case.

CONCLUSION

Your respondent respectfully requests that the petitioner's petition for writ of certiorari be denied for the foregoing reasons.

Respectfully submitted,

SHEPPARD, FLETCHER, HAND & ADAMS

By Lyman T. Fletcher
215 Washington Street
Jacksonville, Florida 32202
Attorneys for Respondent

I HEREBY CERTIFY that a copy hereof has been furnished to Bill McCabe, Esquire, Attorney for Petitioner, Suite 1460, CNA Tower, Orlando, Florida 32801, by mail, this 31 day of December, 1976.

Lyman T. Fletcher
Attorney